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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

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UNITED STATES OF AMERICA

V.

Juan Carlos LUNA

CLERK, U.S. DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

08 MJ 1086

Magistrate's Case No. DEPUTY

COMPLAINT FOR VIOLATION
OF

26 USC 5861 (b) - To receive or
possess a firearm transferred to him
in violation of the National Firearms
Act.

26 USC 5861 (d) - To receive or
possess a firearm which is not
registered to him in the National
Firearms Registration and Transfer
Record.

The undersigned complainant being duly sworn states:

COUNT 1


On April 6, 2007, within the Southern District of California, defendant Juan Carlos LUNA, unlawfully possessed a National Firearms Act firearm transferred to him, which is described as an Ithaca Gun Company, model Flues 4E Single Barrel Trap, 12 gauge shotgun, serial number 290122-T; in violation of Title 26, United States Code, Sections 5861(b) and 5871.

COUNT 2

On April 6, 2007, within the Southern District of California, defendant Juan Carlos LUNA, unlawfully possessed a National Firearms Act firearm not registered to him in the National Firearms Registration and Transfer Record, which is described as an Ithaca Gun Company, model Flues 4E Single Barrel Trap, 12 gauge shotgun, serial number 290122-T; in violation of Title 26, United States Code, Sections 5861(d) and 5871.

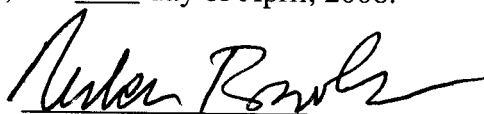
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And the complainant states that this complaint is based on the attached statement of facts, which is incorporated herein by reference.



Special Agent Joseph Mokos
Bureau of Alcohol, Tobacco
Firearms and Explosives

Sworn to before me and subscribed in my presence, this 9th day of April, 2008.



Hon. Ruben B. Brooks
UNITED STATES MAGISTRATE

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Probable Cause Statement

OVERT ACTS

In violation of the aforementioned statutes the following acts were committed in the Southern District of California:

On April 6, 2007, San Diego Police Department (SDPD) Officers Adams and Hairston, along with SDPD Sergeant Hiskes, responded to a preserving the peace call at 2211 Franklin Avenue, San Diego, California 92113. The reporting party, Maria Del Rosario Luna, stated to SDPD Officers that her brother, Juan Carlos LUNA, had broken into her home and was living there without Maria Del Rosario Luna's permission. Maria Del Rosario Luna stated that she was the current owner of the residence and all the utilities in the home were turned off.

While speaking to Maria Del Rosario Luna outside of the residence, SDPD Officers observed Juan Carlos LUNA exit the residence. Juan Carlos LUNA stated to SDPD Officers that he had been living at the residence for the past two months with his girlfriend, Senaida Sanchez, and her five children. SDPD Sergeant Hiskes was then escorted by Juan Carlos LUNA inside the residence to check on the well being of the five children.

After entering the residence, SDPD Officer Hairston located all five children in one bedroom. The children stated to Officer Hairston that they sleep in this bedroom with their parents. One of the boys stated to Officer Hairston that there was a shotgun under the bed in the other bedroom. The boy's seven year old sister, however, responded, "No, Dad moved that shotgun under our bed. He kills rats with it." SDPD Sergeant Hiskes found, under the bed where the children were sitting, a sawed off shotgun, later determined to be the Ithaca Gun Company, model Flues 4E Single Barrel Trap, 12 gauge shotgun, serial number 290122-T.

Juan Carlos LUNA was placed under arrest for possession of an illegal weapon by SDPD Officers. On February 4, 2008, Juan Carlos LUNA pled guilty to California Penal Code, Section 12316(b)(1), possession of ammunition by person prohibited from possessing a firearm.


On April 7, 2008, your affiant measured the Ithaca Gun Company, model Flues 4E Single Barrel Trap, 12 gauge shotgun, serial number 290122-T, and found the barrel of the shotgun to measure seventeen and one quarter inches. Your affiant then measured the overall length of the Ithaca Gun Company, model Flues 4E Single Barrel Trap, 12 gauge shotgun, serial number 290122-T, and found the measurement to be twenty-five and one half inches.

Your affiant knows that for a person to possess a shotgun that has been modified to have an overall length of less than twenty-six inches or a barrel of less than eighteen inches in length, which was transferred to him in violation of the National Firearms Act, is a violation of Title 26, United States Code, Section 5861(b).


On April 8, 2008, your affiant caused a query of the Alcohol, Tobacco, Firearms, and Explosives National Firearms Registration and Transfer Record. This query showed that the Ithaca Gun Company, model Flues 4E Single Barrel Trap, 12 gauge shotgun, serial number 290122-T is not registered to Juan Carlos LUNA in the National Firearms Registration and Transfer Record.

Your affiant knows that for a person to possess a shotgun that has been modified to have an overall length of less than twenty-six inches or a barrel of less than eighteen inches in length, which was not registered in the National Firearms Registration and Transfer Record, is a violation of Title 26, United States Code, Section 5861(d).

Based upon the above information, your affiant believes probable cause exists to issue a criminal complaint to arrest Juan Carlos LUNA for the violations of Title 26, United States Code, Sections 5861(b) and 5871 in that, LUNA possessed a firearm that was transferred to him in violation of the National Firearms Act, which carries a penalty of a fine of not more than \$10,000 or a maximum term of imprisonment of ten years or both; and Title 26, United States Code, Sections 5861(d) and 5871 in that, LUNA possessed a firearm not registered to him in the National Firearms Registration and Transfer Record, which carries a penalty of a fine of not more than \$10,000 or a maximum term of imprisonment of ten years or both.


Special Agent Joseph Mokos
Bureau of Alcohol, Tobacco
Firearms and Explosives

Sworn to before me and subscribed in my presence, this 9th day of April, 2008.



Hon. Ruben B. Brooks
UNITED STATES MAGISTRATE